

Christopher Campanella
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U.S. DISTRICT COURT
N.D. OF N.Y.
FILED

AUG 31 2010

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

LAWRENCE K. BAERMAN, CLERK
ALBANY

Christopher Campanella

Plaintiff,

vs.

AURORA LOAN SERVICING

Defendant

Case # 10-CV-0684-LEK-DRH

MOTION TO CONSOLIDATE

Date: 8/31/10

PLAINTIFF'S MEMORANDUM IN SUPPORT OF MOTION TO CONSOLIDATE

Plaintiff asks the court to consolidate this case with Civil Action No. 10-CV-0685-LEK-DRH.

A. Introduction

1. Plaintiff is Christopher Campanella; defendant is Aurora Loan Services, LP.
2. In Civil Action No. 10-CV-0685-LEK-DRH, plaintiff, Christopher Campanella, sued defendant, Aurora Loan Services, for numerous claims, including but not limited to TILA, RESPA, HOEPA violations, Fraud, Breach of Fiduciary Duty, et al.
3. In this case, plaintiff sued defendant for similar issues.
4. The facts in this case are both similar and substantially related to the subject matter in Civil Action No. 10-CV-0685-LEK-DRH. Both cases are against the same Defendant, with similar issues, however are for different properties.
5. Plaintiff asks the court to consolidate the suits.

B. Argument

6. A court may consolidate lawsuits if they involve substantially the same subject matter and if consolidation does not result in delay, jury confusion, or prejudice to the

parties. *See* Fed. R. Civ. P. 42(a); *Hendrix v. Raybestos-Manhattan, Inc.*, 776 F.2d 1492, 1495-96 (11th Cir. 1985).

7. This suit and Civil Action No. 10-CV-0685-LEK-DRH are substantially the same because of the nature of the claims and Defendant.

8. The suits proposed to be consolidated are pending before this court for all purposes. *See* Fed. R. Civ. P. 42(a).


9. The court should consolidate this suit with Civil Action No. 10-CV-0685-LEK-DRH, for the following reasons:

- a. The suits involve a common party. *See Advey v. Celotex Corp.*, 962 F.2d 1177, 1181 (6th Cir. 1992). Defendants are the same, and in both cases hired the same attorney to represent them.
- b. The suits involve common issues of law. *Cantrell v. GAF Corp.*, 999 F.2d 1007, 1010-11 (6th Cir. 1993); *see Young v. City of Augusta*, 59 F.3d 1160, 1168-69 (11th Cir. 1995); *see Hendrix*, 776 F.2d at 1495-96. The claims in each suit are virtually identical, with exceptions only to addresses of properties, and amounts charged in obtaining the loan.
- c. The suits involve common issues of fact. *Cantrell v. GAF Corp.*, 999 F.2d 1007, 1010-11 (6th Cir. 1993); *see Hendrix*, 776 F.2d at 1495-96.
- d. Consolidation will eliminate any risk of prejudice or confusion. If such a risk exists, it is outweighed by the risk of inconsistent adjudication of common factual and legal issues. *Cantrell v. GAF Corp.*, 999 F.2d 1007, 1011 (6th Cir. 1993); *Hendrix*, 776 F.2d at 1495.
- e. Consolidation will not result in an unfair advantage. *Cantrell v. GAF Corp.*, 999 F.2d 1007, 1011 (6th Cir. 1993).
- f. Consolidation will conserve judicial resources. *Cantrell v. GAF Corp.*, 999 F.2d 1007, 1011 (6th Cir. 1993); *Hendrix*, 776 F.2d at 1495. Although the cases are assigned to the same judge, it would be cost effective to consolidate, and to keep the paperwork, notices and other resources to a minimum.
- g. Consolidation will reduce the expense of trying the suits separately. *Cantrell v. GAF Corp.*, 999 F.2d 1007, 1011 (6th Cir. 1993); *Hendrix*, 776 F.2d at 1495. Counsel for the Defendant has already issued two large stacks of papers which were just about identical. The consolidation would be only fair to keep the costs of preparations to a minimum for the Defendant, and Plaintiff.

C. Conclusion

10. Plaintiff moves this court to consolidate the cases at hand for economic reasons relating to costs to the Court, Plaintiff and Defendant. For these reasons, Plaintiff asks the court to consolidate Civil Action No. 10-CV-0684-LEK-DRH with Civil Action No. 10-CV-0685-LEK-DRH.

Respectfully Submitted,



Christopher Campanella